

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 134

SENATE BILL 1377

AN ACT

AMENDING SECTION 11-952.01, ARIZONA REVISED STATUTES; RELATING TO PUBLIC
AGENCY INSURANCE POOLING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-952.01, Arizona Revised Statutes, is amended to
3 read:

4 11-952.01. Public agency pooling of property, liability,
5 workers' compensation and disability coverage;
6 exemptions; board of trustees; contract;
7 termination; audit; insolvency; definition

8 A. In addition to other authority granted pursuant to this title, two
9 or more public agencies may enter into contracts or agreements pursuant to
10 this article for the joint purchasing of insurance or to pool retention of
11 their risks for property and liability losses and to provide for the payment
12 of such property loss or claim of liability made against any member of the
13 pool on a cooperative or contract basis with one another or may jointly form
14 a nonprofit corporation or enter into a trust agreement to carry out the
15 provisions of this section in their behalf directly or by contract with a
16 private party.

17 B. In addition to other authority granted pursuant to this title, two
18 or more public agencies may enter into contracts or agreements pursuant to
19 this article to establish a separate workers' compensation pool to provide
20 for the payment of workers' compensation claims pursuant to title 23, chapter
21 6 on a cooperative or contract basis with one another or may jointly form a
22 nonprofit corporation or enter into a trust agreement to carry out the
23 provisions of this section in their behalf directly or by contract with a
24 private party. A workers' compensation pool established pursuant to this
25 subsection may only provide coverage for workers' compensation, employers'
26 liability and occupational disease claims. A workers' compensation pool is
27 a separate entity which is subject to approval as a self-insurer by the
28 industrial commission pursuant to section 23-961, subsection A, paragraph 2
29 and is subject to title 23, chapter 6 and rules adopted pursuant to that
30 chapter in addition to the requirements of this section.

31 C. In addition to other authority granted pursuant to this title, two
32 or more public agencies may enter into contracts or agreements for the joint
33 purchase of life insurance or health benefits plan insurance, to pool
34 retention of their risks for life insurance or health claims made against any
35 public agency member of the pool or to jointly provide the health and medical
36 services authorized in section 36-2907. Public agencies may establish pools
37 for the purposes of this subsection by any of the following methods:

- 38 1. On a cooperative or contract basis.
- 39 2. By the formation of a nonprofit corporation.
- 40 3. By contracts or intergovernmental agreements with the Arizona
41 health care cost containment system administration.
- 42 4. By the execution of a trust agreement directly by the agencies or
43 by contracting with a third party.

44 D. In addition to other authority granted pursuant to this title, two
45 or more public agencies may enter into contracts or agreements pursuant to

1 this article for the joint purchasing of insurance or to pool retention of
2 their risks for a series of insurance policies issued to cover the school
3 district governing board, the school district and the contractor and
4 subcontractor of every tier engaged in the performance of a construction
5 project of the school district. Public agencies may establish pools for the
6 purpose of this subsection by any of the following methods:

- 7 1. On a cooperative or contract basis.
- 8 2. By the formation of a nonprofit corporation.
- 9 3. By the execution of a trust agreement directly by the agencies or
10 by contracting with a third party.

11 E. Section 10-11301 does not apply to nonprofit corporations formed
12 pursuant to this section.

13 F. Title 41, chapter 23 does not apply to the procurement of
14 insurance, or to the procurement of the services provided for in subsection
15 J K, paragraph 8 of this section, by any pool established pursuant to this
16 section.

17 G. Title 43 does not apply to any pool established pursuant to this
18 section. Any pool established pursuant to this section is exempt from
19 taxation under title 43.

20 H. Each pool shall be operated by a board of trustees consisting of
21 at least three persons who are elected officials or employees of public
22 entities within this state. The board of trustees shall notify the director
23 of the department of insurance of the existence of the pool and shall file
24 with the director and with the attorney general a copy of the
25 intergovernmental agreement or contract. The attorney general shall file a
26 copy of the agreement or contract with the secretary of state as required by
27 section 11-952. The board of trustees of each group shall do all of the
28 following:

- 29 1. Establish terms and conditions of coverage within the pool
30 including exclusions of coverage.
- 31 2. Ensure that all claims are paid promptly.
- 32 3. Take all necessary precautions to safeguard the assets of the
33 group.
- 34 4. Maintain minutes of its meetings.
- 35 5. Designate an administrator to carry out the policies established
36 by the board of trustees and to provide day-to-day management of the group
37 and delineate in the written minutes of its meetings the areas of authority
38 it delegates to the administrator.

39 6. If the pool is a workers' compensation pool, file a copy of the
40 agreement with the director of the industrial commission.

41 I. IF THE POOL INCLUDES PRIVATE, NONPROFIT EDUCATIONAL INSTITUTIONS,
42 EACH PRIVATE, NONPROFIT EDUCATIONAL INSTITUTION SHALL POST A BOND, CASH
43 DEPOSIT OR OTHER COMPARABLE FINANCIAL SECURITY IN AN AMOUNT THAT IS EQUAL TO
44 AT LEAST ONE AND ONE-HALF TIMES THE AMOUNT OF THE PRIVATE NONPROFIT
45 EDUCATIONAL INSTITUTION'S ANNUAL PREMIUM TO ENSURE PAYMENT OF THE SCHOOL'S

1 OR INSTITUTION'S LEGAL LIABILITIES AND OTHER OBLIGATIONS IF THE POOL IS
2 DETERMINED TO BE INSOLVENT OR IS OTHERWISE FOUND TO BE UNABLE TO DISCHARGE
3 THE POOL'S LEGAL LIABILITIES AND OTHER OBLIGATIONS PURSUANT TO SUBSECTION N
4 OF THIS SECTION.

5 ~~I.~~ J. The board of trustees shall not:

6 1. Extend credit to individual members for payment of a premium,
7 except pursuant to payment plans established by the board.

8 2. Borrow any monies from the group or in the name of the group except
9 in the ordinary course of business.

10 ~~J.~~ K. In addition to the requirements of section 11-952, a contract
11 or agreement made pursuant to subsection A of this section shall contain the
12 following:

13 1. A provision for a system or program of loss control.

14 2. A provision for termination of membership including either:

15 (a) Cancellation of individual members of the pool by the pool.

16 (b) Election by an individual member of the pool to terminate its
17 participation.

18 3. A provision requiring the pool to pay all claims for which each
19 member incurs liability during each member's period of membership.

20 4. A provision stating that each member is not relieved of its
21 liability incurred during the member's period of membership except through
22 the payment of losses by the pool or by the member.

23 5. A provision for the maintenance of claim reserves equal to known
24 incurred losses and an estimate of incurred but not reported claims.

25 6. A provision for a final accounting and settlement of the
26 obligations of or refunds to a terminating member to occur when all incurred
27 claims are concluded, settled or paid.

28 7. A provision that the pool may establish offices where necessary in
29 this state and employ necessary staff to carry out the purposes of the pool.

30 8. A provision that the pool may retain legal counsel, actuaries,
31 auditors, engineers, private consultants and advisors.

32 9. A provision that the pool may make and alter bylaws and rules
33 pertaining to the exercise of its purpose and powers.

34 10. A provision that the pool may purchase, lease or rent real and
35 personal property it deems necessary.

36 11. A provision that the pool may enter into a financial services
37 agreement with banks and that it may issue checks in its own name.

38 ~~K.~~ L. A pool or a terminating member shall provide at least ninety
39 days' written notice of the termination or cancellation. A workers'
40 compensation pool shall notify the industrial commission of the termination
41 or cancellation of a member thirty days before the termination or
42 cancellation of the member.

43 ~~L.~~ M. The pool shall be audited annually at the expense of the pool
44 by a certified public accountant, with a copy of the report submitted to the
45 governing body or chief executive officer of each member of the pool and to

1 the director of the department of insurance. The board of trustees of the
2 pool shall obtain an appropriate actuarial evaluation of the claim reserves
3 of the pool including an estimate of the incurred but not reported
4 claims. The department of insurance shall examine each public agency pool
5 once every three years. The director of the department of insurance may
6 examine a public agency pool sooner than three years from the preceding
7 examination if the director has reason to believe that the pool is
8 insolvent. The costs of any examination shall be paid by the pool subject
9 to the examination.

10 M. N. If, as a result of the annual audit or an examination by the
11 director of the department of insurance, it appears that the assets of the
12 pool are insufficient to enable the pool to discharge its legal liabilities
13 and other obligations, the director of the department of insurance shall
14 notify the administrator and the board of trustees of the pool of the
15 deficiency and the director's list of recommendations to abate the
16 deficiency, including a recommendation not to add any new members until the
17 deficiency is abated. If the pool fails to comply with the recommendations
18 within sixty days after the date of the notice, the director shall notify the
19 chief executive officer or the governing bodies, if any, of the members of
20 the pool, the governor, the president of the senate and the speaker of the
21 house of representatives that the pool has failed to comply with the
22 recommendations of the director.

23 N. O. If a pool is determined to be insolvent or is otherwise found
24 to be unable to discharge its legal liabilities and other obligations, each
25 agreement or contract shall provide that the members of the pool shall be
26 assessed on a pro rata basis as calculated by the amount of each member's
27 annual contribution in order to satisfy the amount of deficiency. The
28 assessment shall not exceed the amount of each member's annual contribution
29 to the pool.

30 O. P. A pool established pursuant to this section may make available
31 programs providing for insurance coverages described in subsections A, B and
32 C of this section to those charter schools governed by section 15-183,
33 subsection M AND TO PRIVATE, NONPROFIT EDUCATIONAL INSTITUTIONS.

34 P. Q. For purposes of this section, "health benefits plan" means a
35 hospital or medical service corporation policy or certificate, a health care
36 services corporation contract, a multiple employer welfare arrangement or any
37 other arrangement under which health and medical benefits and services are
38 provided to two or more persons.

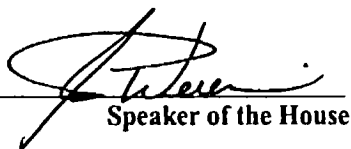
**THIS BILL HAVING REMAINED WITH THE GOVERNOR FIVE DAYS, SUNDAYS EXCLUDED,
AND THE LEGISLATURE BEING IN SESSION, IT HAS BECOME A LAW THIS 6 DAY OF
MAY 2002.**

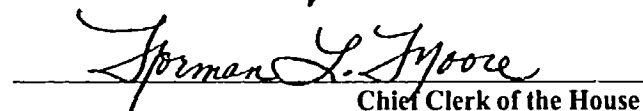
FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2002.

Passed the House April 25, 20 02,

by the following vote: 51 Ayes,

3 Nays, 6 Not Voting


Speaker of the House

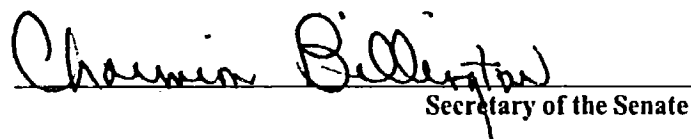

Chief Clerk of the House

Passed the Senate March 21, 20 02,

by the following vote: 25 Ayes,

4 Nays, 1 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

~~This Bill was received by the Governor this~~

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1377

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

~~This Bill was received by the Secretary of State~~

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 30, 2002

by the following vote: 19 Ayes,

9 Nays, 2 Not Voting

Kandice Amant
President of the Senate

Charmine Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2002

at 12:48 o'clock P M.

Sandra Gandy
Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 6 day of May, 2002

at 4:47 o'clock P M.

Debra Taylor
Secretary of State

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